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BY: \_\_\_\_\_  
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 CLERK U.S. DISTRICT COURT  
 CENTRAL DIST. OF CALIF.  
 LOS ANGELES

FILED

11 UNITED STATES DISTRICT COURT  
 12 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

13 THOMAS CHAYRA,  
 14 INDIVIDUALLY AND ON BEHALF  
 15 OF ALL OTHERS SIMILARLY  
 16 SITUATED,

17 Plaintiff,

18 v.

19 7-ELEVEN, INC.,

20 Defendant.

Case No.

CV 11-09838 JHN (MPX)

COMPLAINT

21 COMPLAINT

22 TO THE HONORABLE JUDGE OF SAID COURT:

23 Plaintiff THOMAS CHAYRA, individually, and on behalf of all others  
 24 similarly situated ("Plaintiff"), alleges upon knowledge with respect to himself and  
 25 upon information and belief based, in part, on the investigation of counsel, as  
 26 follows:

27 **I. PRELIMINARY STATEMENT**

28 1. Plaintiff brings this action, individually and on behalf of all others

1 similarly situated, against Defendant alleging violations of 15 U.S.C. § 1693 et seq.,  
 2 which is commonly known as the Electronic Fund Transfer Act and 12 C.F.R. § 205  
 3 et seq., commonly known as Regulation E, which contains regulations promulgated  
 4 by the Board of Governors of the Federal Reserve System to implement the Act (the  
 5 Act and Regulation E shall hereinafter be collectively referred to as the "EFTA").

6  
 7 2. The EFTA establishes the basic rights, liabilities, and responsibilities  
 8 of consumers who use electronic fund transfer services and of financial institutions  
 9 that offer these services. The primary objective of the EFTA and Regulation E is the  
 10 protection of consumers engaging in electronic fund transfers. 12 C.F.R. § 205.1(b).  
 11 The EFTA requires specific disclosures be given by operators of automated teller  
 12 machines ("ATMs") to users of ATMs, prior to the imposition of a fee for using an  
 13 ATM. 15 U.S.C. § 1693b.

14  
 15 3. The Congressional findings and declaration of purpose regarding the  
 16 EFTA provides:

17  
 18 (a) Rights and liabilities undefined

19  
 20 The Congress finds that the use of electronic systems to  
 21 transfer funds provides the potential for substantial  
 22 benefits to consumers. However, due to unique  
 23 characteristics of such systems, the application of existing  
 24 consumer protection legislation is unclear, leaving the  
 25 rights and liabilities of consumers, financial institutions  
 26 and intermediaries in electronic fund transfers undefined.

27  
 28 (b) Purposes

1 It is the purpose of this subchapter to provide a basic  
2 framework establishing the rights, liabilities, and  
3 responsibilities of participants in electronic fund transfer  
4 systems. The primary objective of this subchapter,  
5 however, is the provision of individual consumer rights.

6  
7 4. The EFTA specifically requires that ATM machines must have a posted  
8 notice attached on or at the machine informing consumers of the imposition of an  
9 ATM surcharge. 15 U.S.C. § 1693b(d)(3).

10  
11 5. This case is brought under the EFTA based upon the fact that  
12 Defendant has imposed ATM fees without providing any posted notice as required  
13 by the EFTA.

14  
15 6. Plaintiff, on behalf of himself and all others similarly situated, brings  
16 this action against Defendant based on Defendant's violation of the EFTA. Plaintiff  
17 seeks, on behalf of himself and the proposed class, statutory damages, costs and  
18 attorney's fees, all of which are expressly made available by statute, 15 U.S.C. §  
19 1693m. Plaintiff does not seek actual damages. Plaintiff also seeks a permanent  
20 injunction enjoining Defendant from continuing its unlawful practice of negligently,  
21 willfully, or knowingly violating the provisions of the EFTA which prohibit the  
22 improper imposition of ATM fees.

## 23 24 II. PARTIES

25  
26 7. Plaintiff is a natural person who resides in Los Angeles County,  
27 California and used a certain ATM owned and operated by 7-ELEVEN, INC. and  
28 located at 18514 Plummer, Northridge, CA 91324, within one year of the filing of

1 this Complaint, and was charged an ATM surcharge fee at the ATM alleged in this  
2 Complaint.

3  
4 8. Defendant 7-Eleven, Inc., is an incidental sales convenience store  
5 authorized and doing business in California. Defendant 7-Eleven may be served  
6 through its manager, Donna Dunn at 18514 Plummer, Northridge, CA 91324.

### 7 8 **III. JURISDICTION AND VENUE**

9  
10 9. This Court has federal question jurisdiction pursuant to 28 U.S.C. §§  
11 1331 and 1337 and 15 U.S.C. 1693m(g) because this action arises under the  
12 Electronic Fund Transfers Act, 15 U.S.C. § 1693 et seq.

13  
14 10. Venue in this judicial district is proper under 28 U.S.C. § 1391 in that  
15 this is the judicial district in which a substantial part of the events or omissions  
16 giving rise to the claims occurred.

### 17 18 **IV. BACKGROUND**

#### 19 20 **A. Electronic Funds Transfer Act**

21  
22 11. "Electronic funds transfer" is defined ☐ as "any transfer of funds . . .  
23 which is initiated through an electronic terminal, telephonic instrument, or computer  
24 or magnetic tape so as to order, instruct, or authorize a financial institution to debit  
25 or credit an account. Such term includes ... automated teller machine transactions  
26 ...." 15 U.S.C. § 1693a(6); see also 12 C.F.R. § 205.3(b).

27  
28 12. Defendant is an "automated teller machine operator" as that term is

1 defined by 12 C.F.R. § 205.16(a), which states: "Automated teller machine operator  
2 means any person that operates an automated teller machine at which a consumer  
3 initiates an electronic fund transfer or a balance inquiry and that does not hold the  
4 account to or from which the transfer is made, or about which an inquiry is made."  
5

6 13. 15 U.S.C. § 1693b(d)(3)(A) and (B), and the implementing regulation,  
7 12 C.F.R. § 205.16(b) and (c), require an ATM operator who imposes a fee on a  
8 consumer for "host transfer services" (an electronic fund transfer or a balance  
9 inquiry) to provide notice to the consumer of the fee before the consumer is  
10 committed to the transaction. Specifically, 12 C.F.R. § 205.16(b) states:

11  
12 General. An automated teller machine operator that imposes a fee  
13 on a consumer for initiating an electronic fund transfer or  
14 a balance inquiry shall:

- 15  
16 (1) Provide notice that a fee will be imposed for providing  
17 electronic fund transfer services or a balance inquiry; and  
18  
19 (2) Disclose the amount of the fee.  
20

21 14. 15 U.S.C. § 1693b(d)(3)(B), and its implementing regulation, 12 C.F.R.  
22 § 205.16(c), specifies the notice to be provided to consumers. 12 C.F.R. § 205.16(c)  
23 states:

- 24  
25 (c) Notice requirement. To meet the requirements of paragraph (b)  
26 of this section, an automated teller machine operator must  
27 comply with the following:  
28

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- (1) On the machine. Post in a prominent and conspicuous location on or at the automated teller machine a notice that:
  - (i) A fee will be imposed for providing electronic fund transfer services or for a balance inquiry; or
  - (ii) A fee may be imposed for providing electronic fund transfer services or for a balance inquiry, but the notice in this paragraph (c)(1)(ii) may be substituted for the notice in paragraph (c)(1)(i) only if there are circumstances under which a fee will not be imposed for such services; and
- (2) Screen or paper notice. Provide the notice required by paragraphs (b)(1) and (b)(2) of this section either by showing it on the screen of the automated teller machine or by providing it on paper, before the consumer is committed to paying a fee.

15. Pursuant to this regulation, the notice physically attached to the ATM must comply with 12 C.F.R. § 205.16(c), either by stating that a fee will be imposed, or if there are circumstances in which a fee will not be imposed, that a fee may be imposed.

16. 15 U.S.C. § 1693b(d)(3)(C), and its implementing regulation, 12 C.F.R. § 205.16(e), provide that no fee may be imposed by an ATM operating in connection with any electronic fund transfer initiated by a consumer for which a

1 notice is required unless the consumer is provided the notices required pursuant to  
2 12 C.F.R. § 205.16(c). Specifically, 15 U.S.C. § 1693b(d)(3)(C) states in relevant  
3 part:

4  
5 (C) Prohibition on fees not properly disclosed and explicitly assumed  
6 by consumer. No fee may be imposed by any automated teller  
7 machine operator in connection with any electronic fund transfer  
8 initiated by a consumer for which a notice is required under  
9 subparagraph (A), unless -

- 10  
11 (i) the consumer receives such notice in accordance with  
12 subparagraph (B); and  
13  
14 (ii) the consumer elects to continue in the manner necessary to  
15 effect the transaction after receiving such notice.  
16

17 Similarly, 12 C.F.R § 205.16(e) provides that:

18  
19 (e) Imposition of fee. An automated teller machine operator may  
20 impose a fee on a consumer for initiating an electronic fund  
21 transfer or a balance inquiry only if

- 22  
23 (1) The consumer is provided the notices required under  
24 paragraph (c) of this section, and  
25  
26 (2) The consumer elects to continue the transaction or inquiry  
27 after receiving such notices.  
28

1           17. In connection with 2006 amendments to the EFTA, the Board of  
2 Governors of the Federal Reserve published its Final Rule and official staff  
3 interpretation which, inter alia, explained the EFTA's disclosure requirements as  
4 follows:

5  
6           The final rule clarifies the two-part disclosure scheme established in  
7 Section 904(d)(3)(B) of the EFTA. The first disclosure, on ATM  
8 signage posted on or at the ATM, allows consumers to identify quickly  
9 ATMs that generally charge a fee for use. This disclosure is not  
10 intended to provide a complete disclosure of the fees associated with  
11 the particular type of transaction the consumer seeks to conduct. Until a  
12 consumer uses his or her card at an ATM, the ATM operator does not  
13 know whether a surcharge will be imposed for that particular consumer.  
14 Rather, it is the second, more specific disclosure, made either on the  
15 ATM screen or an ATM receipt, that informs the customer before he or  
16 she is committed to the transactions whether, in fact, a fee will be  
17 imposed for the transaction and the amount of the fee.

18  
19           71 C.F.R. 1638, 1656 (emphasis added).

20  
21           18. Thus, the statute and regulation require that a physical notice must be  
22 displayed informing consumers that the ATM imposes a surcharge and that the  
23 ATM screen must definitively state that a fee will be imposed, before that fee is  
24 imposed.

25  
26           19. The EFTA imposes strict liability upon ATM operators that fail to  
27 comply with its disclosure requirements. See *Burns v. First American Bank*, 2006  
28 WL 3754820, \*6 (N.D. Ill. Dec. 19, 2006). A plaintiff seeking statutory damages



1 under the EFTA need not prove that he or she sustained any actual financial loss, or  
 2 that he or she relied upon the lack of mandatory disclosure as an inducement to enter  
 3 into a transaction. Burns, 2006 WL 3754820, \*6 ("Section 1693b(d)(3) prohibits an  
 4 ATM operator from charging a fee unless it provides notice of its fee on the  
 5 machine and on the screen, period, no mention of a necessary scienter.")

6  
 7 20. The notice referenced in 15 U.S.C. §1693f has no arguable applicability  
 8 to Plaintiff's claims because, among other things, Plaintiff is not an account holder  
 9 of Defendant.

10  
 11 **B. Defendant's Conduct**

12  
 13 21. Defendant is an ATM operator regulated under the EFTA, 15 U.S.C. §  
 14 1693 et seq. and 12 C.F.R. Part 205 (Regulation E), as that term is defined in 12  
 15 C.F.R. § 205.16(a).

16  
 17 22. Defendant owns and operates the ATMs identified in ¶ 7 (7-Eleven  
 18 ATM).

19  
 20 23. The 7-Eleven ATM permits consumers to perform electronic fund  
 21 transfers, as defined in 12 C.F.R. § 205.3.

22  
 23 24. The 7-Eleven ATM imposes a fee on consumers who withdraw cash  
 24 from the 7-Eleven ATMs.

25  
 26 25. Defendant failed to post on or at the 7-Eleven ATM a notice that a fee  
 27 will be imposed for withdrawing cash or for a balance inquiry, resulting in  
 28 Defendant's improper imposition of a fee to users of the 7-Eleven ATM.

1       26. Defendant's failure to post the required notice on or at the 7-Eleven  
2 ATM has resulted in frequent and persistent non-compliance with the EFTA. Said  
3 violations of the EFTA have adversely affected hundreds or thousands of  
4 consumers.

5  
6       27. Despite knowing of the ATM fee notice provisions of the EFTA,  
7 Defendant has intentionally violated and continues to violate the EFTA by failing to  
8 post the required ATM fee notices at the 7-Eleven ATM and improperly imposing  
9 ATM fees.

10  
11       28. Defendant's non-compliance with the ATM fee notice requirements of  
12 the EFTA, and subsequent imposition of a fee, did not result from a bona fide error.

13  
14 **C. Plaintiff's Electronic Funds Transfers With Defendant**

15  
16       29. Plaintiff is a consumer as defined in 12 C.F.R. § 205.2(e).

17  
18       30. On October 12, 2011, Plaintiff used the 7-Eleven ATM described in  
19 this Complaint in order to conduct an electronic funds transfer involving the  
20 withdrawal of cash.

21  
22       31. The 7-Eleven ATM did not and does not have the fee notice required  
23 by 15 U.S.C. § 1693b(d)(3) and 12 C.F.R. § 205.16 as it did not have any sign  
24 affixed to it or in close proximity to it informing consumers that use of the 7-Eleven  
25 ATM will or may result in an ATM surcharge.

26  
27       32. Plaintiff was in fact assessed a \$2.95 ATM surcharge fee for  
28 withdrawing cash from the 7-Eleven ATM.

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## V. CLASS ALLEGATIONS

33. Plaintiff brings this class action on behalf of himself and all other similarly situated persons pursuant to Rule 23 of the Federal Rules of Civil Procedure.

34. Plaintiff seeks to represent a class of similarly situated persons, consisting of (a) all consumer's (b) who initiated an electronic funds transfer at the 7-Eleven ATM described in ¶7 and (c) were assessed a fee for withdrawing cash from the 7-Eleven ATM described in ¶ 7, (d) on or after the date one year prior to the filing of this action and continuing through the trial of this cause or until the Defendant is compliant with the ETFA by posting the appropriate notice. (the "Class").

35. Congress expressly intended "that the EFTA would be enforced, in part, through private class actions." 15 U.S.C. § 1693m(a).

36. Plaintiff is informed and believes, and thereon alleges, that there are at minimum, hundreds of members of the Class.

37. The exact size of the Class and the identities of the individual members thereof are ascertainable through Defendant's records. Defendant has exclusive control of this information.

38. Members of the Class may be notified of the pendency of this action by techniques and forms commonly used in class actions, such as by published notice, e-mail notice, website notices, first class mail, or combinations thereof, or by other methods suitable to this class and deemed necessary and/or appropriate by this

1 Court.

2  
3 39. Defendant can generate data for its ATMs identifying each transaction  
4 in which a fee was charged. The data will include the date of the transaction, the  
5 amount of the fee and the personal account number ("PAN") for the consumer. The  
6 PAN includes a bank identification number ("BIN"). This information can be used  
7 to identify class members.

8  
9 40. The Class is sufficiently numerous to make bringing all parties before  
10 the Court impractical.

11  
12 41. Plaintiff's claims are typical of the claims of the members of the Class.  
13 The claims of the Plaintiff and members of the Class are based on the same legal  
14 theories and arise from the same unlawful conduct. Plaintiff and Class members  
15 seek recovery of statutory, not actual, damages.

16  
17 42. Plaintiff and members of the Class were each users of the 7-Eleven  
18 ATM since the date one year prior to the filing of this action.

19  
20 43. Plaintiff and each member of the Class were illegally charged an ATM  
21 fee as a result of Defendant's failure to comply with the ATM fee notice  
22 requirements of the EFTA.

23  
24 44. Plaintiff and each class member received an inadequate notice  
25 regarding the imposition of an ATM fee by the 7-Eleven ATM.

26  
27 45. The questions of law and fact common to the Class predominate over  
28 questions which may affect individual members, including:

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- (a) Whether Defendant was at all relevant times during the class period an automated teller machine operator which imposed a fee on consumers for providing host transfer services to those consumers;
- (b) Whether Defendant is the operator of the 7-Eleven ATM;
- (c) Whether Defendant complied, at all times during the class period, with the notice requirements of 15 U.S.C. § 1693b(d)(3) and 12 C.F.R. § 205.16; and
- (d) Whether Plaintiff and members of the Class are entitled to statutory damages, costs and attorney's fees for Defendant's acts and conduct.

46. Plaintiff can and will adequately and vigorously represent and protect the interests of the members of the Class. Plaintiff has no interests antagonistic to the members of the Class. Plaintiff has retained counsel able, competent and qualified to prosecute this class action litigation.

47. Plaintiff and Plaintiff's counsel will fairly and adequately protect the interests of the class.

48. A class action is superior to other available means for the fair and efficient adjudication of the claims of the Class. While the aggregate damages that may be awarded to the members of the Class are likely to be substantial, the damages suffered by the individual members of the Class are relatively small. As a result, the expense and burden of individual litigation makes it economically

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1 infeasible and procedurally impracticable for each member of the Class to  
 2 individually seek redress for the wrongs done to them. Plaintiff does not know of  
 3 any other litigation concerning this controversy already commenced by or against  
 4 any member of the Class. The likelihood of the individual members of the Class  
 5 prosecuting separate claims is remote. Individualized litigation would also present  
 6 the potential for varying, inconsistent, or contradictory judgments, and would  
 7 increase the delay and expense to all parties and the court system resulting from  
 8 multiple trials of the same factual issues. In contrast, the conduct of this matter as a  
 9 class action presents fewer management difficulties conserves the resources of the  
 10 parties and the court system, and would protect the rights of each member of the  
 11 Class. Plaintiff knows of no difficulty to be encountered in the management of this  
 12 action that would preclude its maintenance as a class action.

13  
 14 49. Defendant has acted on grounds generally applicable to the members of  
 15 the Class, thereby making appropriate final injunctive relief with respect to the Class  
 16 as a whole.

## 17 VI. CLAIMS

### 18 A. Count 1: Violation of 15 U.S.C. § 1693 et seq. and 12 C.F.R. 205 et seq.

19  
 20  
 21  
 22 50. Plaintiff incorporates and re-alleges the above numbered paragraphs by  
 23 reference.

24  
 25 51. Plaintiff asserts this claim on behalf of himself and the Class against  
 26 Defendant.

27  
 28 52. Defendant failed to provide notices to the Plaintiff and the Class as

1 required by 15 U.S.C. § 1693b(d)(3) and 12 C.F.R. § 205.16(c), and imposed a fee in  
 2 violation of 15 U.S.C. § 1693b(d)(3)(C) and 12 C.F.R. §§ 205.16(b) and (e).

3  
 4 53. 15 U.S.C. § 1693b(d)(3)(C), and its implementing regulation, 12 C.F.R.  
 5 § 205.16(e) prohibit the imposition and receipt of a fee for conducting an electronic  
 6 fund transfer unless a notice of the fee is posted in a prominent and conspicuous  
 7 location on or at the ATM.

8  
 9 54. Defendant imposed and received a fee in violation of 15 U.S.C. §  
 10 1693b(d)(3)(C), and its implementing regulation, 12 C.F.R. § 205.16(e).

11  
 12 55. As a result of Defendant's violations of the EFTA, Defendant is liable  
 13 to Plaintiff and the class for statutory damages pursuant to 15 U.S.C. § 1693m.

14  
 15 56. As a result of Defendant's violations of the EFTA, Plaintiff and the  
 16 members of the Class are entitled to recover costs of suit and their reasonable  
 17 attorney's fees.

18  
 19 57. Defendant's conduct is continuing, and, unless restrained, Defendant  
 20 will continue to engage in violations of the EFTA.

### 21 22 **REQUEST FOR RELIEF**

23  
 24 **WHEREFORE**, Plaintiff, on behalf of himself and the members of the Class,  
 25 prays for:

- 26 A. An order certifying the Class and appointing Plaintiff as the  
 27 representative of the Class, and appointing undersigned counsel  
 28 as Class Counsel;

- 1 B. An award to Plaintiff and the members of the Class of statutory  
2 damages pursuant to 15 U.S.C § 1693m;  
3 C. Payment of costs of suit herein incurred pursuant to 15 U.S.C §  
4 1693m(a)(3);  
5 D. Payment of reasonable attorney's fees pursuant to 15 U.S.C §  
6 1693m(a)(3);  
7 E. A permanent injunction enjoining Defendant from engaging in  
8 conduct in violation of the EFTA; and  
9 F. For other and further relief as the Court may deem proper.

10  
11 **JURY DEMAND**

12  
13 Plaintiff demands a trial by jury.

14  
15 DATED: November 22, 2011

16 Respectfully submitted,  
17 PANISH SHEA & BOYLE LLP

18  
19  
20 By: 

21 PETER L. KAUFMAN

22 Attorneys for PLAINTIFFS  
23  
24  
25  
26  
27  
28

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**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA**  
**CIVIL COVER SHEET**

**I (a) PLAINTIFFS** (Check box if you are representing yourself ☐)

THOMAS CHAYRA, Individually and on behalf  
of all others Similarly Situated ,

**DEFENDANTS**

7-ELEVEN, INC.

**(b) Attorneys** (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

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Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an X in one box only.)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only**  
(Place an X in one box for plaintiff and one for defendant.)

- |   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

**IV. ORIGIN** (Place an X in one box only.)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

**V. REQUESTED IN COMPLAINT: JURY DEMAND:** ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)

**CLASS ACTION** under F.R.C.P. 23: ☒ Yes ☐ No

☐ **MONEY DEMANDED IN COMPLAINT: \$**

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Plaintiff, individually and on behalf of all others similarly situated, alleges violations of 15 U.S.C. §1693 et seq., (Electronic Fund Transfer Act ("EFTA")) and 12 C.F.R. § 205 et seq., (Regulation E). This case is brought under the EFTA based upon the fact that Defendant has imposed ATM fees without providing any posted notice, as required by the EFTA.

**VII. NATURE OF SUIT** (Place an X in one box only.)

OTHER STATUTES	CONTRACT	PERSONAL INJURY	TORTS	PRISONER PETITIONS	LABOR
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 530 General Habeas Corpus	<input type="checkbox"/> 720 Labor/Mgmt. Relations
<input checked="" type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 445 American with Disabilities - Employment	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 862 Black Lung (923) (405(g))
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 446 American with Disabilities - Other	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 863 DIWC/DIWW (405(g))
<input type="checkbox"/> 891 Agricultural Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 892 Economic Stabilization Act	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 463 Habeas Corpus-Alien Detainee		<input type="checkbox"/> 690 Other	<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 465 Other Immigration Actions			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 240 Torts to Land				<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 245 Tort Product Liability				
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 290 All Other Real Property				
<input type="checkbox"/> 950 Constitutionality of State Statutes					

**FOR OFFICE USE ONLY:** Case Number: CV11-09838

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): \_\_\_\_\_

**VIII(b). RELATED CASES:** Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): \_\_\_\_\_

**Civil cases are deemed related if a previously filed case and the present case:**

(Check all boxes that apply)

- ☐ A. Arise from the same or closely related transactions, happenings, or events; or  
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or  
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
LOS ANGELES COUNTY	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	TEXAS

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.

**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
LOS ANGELES COUNTY	

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

**Note:** In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): \_\_\_\_\_ Date NOVEMBER 21, 2011  
PETER KAUFMAN

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

THOMAS CHAYRA, Individually and on  
behalf of all others Similarly  
Situating,

PLAINTIFF(S)

v.

7-ELEVEN, INC.

DEFENDANT(S).

CASE NUMBER

**CV 11-09838**

JHN (MKNX)

**SUMMONS**

TO: DEFENDANT(S): 7-ELEVEN, INC.

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, PETER KAUFMAN, whose address is Panish Shea & Boyle, 11111 Santa Monica Blvd, Ste 700, LACA 90025. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

NOV 29 2011

Clerk, U.S. District Court

**JULIE PRADO**

**SEAL**

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge Jacqueline Nguyen and the assigned discovery Magistrate Judge is Michael Wilner.

The case number on all documents filed with the Court should read as follows:

**CV11- 9838 JHN (MRWx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

☒ **Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

☐ **Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

☐ **Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.